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09/774,458	01/31/2001	Fred J. Zustak	SNY-P4143	3440
24337	7590	08/26/2004	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/774,458

Applicant(s)

ZUSTAK ET AL.

Examiner

Scott Beliveau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 52 (Figure 1). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "42" (Page 8, Line 2), "118" (Page 9, Line 19), "178" (Page 12, Line 15). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

3. Updated status of all co-pending applications is further required as appropriate (Page 12, Lines 23-27).

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7, 8, 10, 11, and 12-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Novak (US Pub No. 2002/0104099 A1).

In consideration of claim 1, the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract). The method comprises “receiving programming content from a first subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber via a first subscriber's set-top box” [122] ([0056]; [0061]; [0078]). The received programming content is subsequently “multicast” ([0060] and [0084]) to the “class of subscribers” such as those belonging to a class of people with a common interest for the delivery of the uploaded

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material such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; [0080] – [0082]; [0084]; [0089]).

Claims 2-4 are rejected wherein the “programming content is received from the first subscriber by an upload to a service provider via a dial-up narrowband telephone communication link” or “via a wideband telephone communication link”, or “via a cable modem communication link” ([0030]).

Claim 5 is rejected wherein the “multicasting comprises multicasting the programming content over a leased digital television channel” or PPV channel ([0081]).

Claim 7 is rejected wherein the “class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest” ([0026]; [0058]; [0070]; [0080]).

Claim 8 is rejected wherein “the programming content is received from the first subscriber by an upload to a service provider of content from one of a still camera, a video camera, a video tape player, an audio tape player, a CD players, a PVR and a scanner” ([0039]; [0061]).

In consideration of claims 10 and 11, the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract). The method comprises “establishing the class of subscribers” [0058] whereby those subscribers may “least a television channel from a service provider” [0081] in order to access uploaded or “electronically transmitted programming content form a first subscriber to the service provider . . . from the first subscriber’s set-top box” ([0056]; [0061]; [0078]). Once

uploaded, the “first subscriber being one of the class of subscribers” (ex. family member) “schedules playback of the programming content” (Figures 6-7; [0062] – [0067] whereupon it is subsequently “multicast . . . over the leased television channel to the class of subscribers” such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; [0080] – [0082]; [0084]; [0089]).

Claim 13 is rejected wherein the “television channel comprises a digital television channel” associated with an IP broadcast ([0069]; [0089]).

Claim 14 is rejected wherein the “programming content is received from the first subscriber by an upload to a service provider via one of a dial-up narrowband telephone communication link, a via a wideband telephone communication link and a cable modem communication link” ([0030]).

Claim 15 is rejected wherein “the programming content is received from the first subscriber by an upload to a service provider of content from one of a still camera, a video camera, a video tape player, an audio tape player, a CD players, a PVR and a scanner” ([0039]; [0061]).

In consideration of claim 16, the reference discloses the particular usage of an “arbiter” (Figure 7) further operable to “removing the programming content by: requesting a schedule arbiter to remove the content and the schedule arbiter removing the content” ([0065]) so as to ensure that multiple programs are not scheduled for the same time slot.

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Claim 17 is rejected wherein the “scheduling is carried out by a schedule arbiter”  
([0066]).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
8. Claim 6, 9, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (US Pub No. 2002/0104099 A1).

In consideration of claims 6 and 12, the reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers” [0082]. The reference, however, does not explicitly set forth “providing the encryption key to the class of subscribers”. The examiner takes OFFICIAL NOTICE that it is notoriously well known in

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the art of video distribution to “provide the encryption key to the class of subscribers” who are authorized to view requested content. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to “provide the encryption key to the class of subscribers” for the purpose of providing a means for restricting access to multicast material such that only viewers authorized to decrypt and view the requested encrypted content may do so.

Claim 9 is rejected as aforementioned, wherein the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract), wherein “the class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest, the method comprising in combination” ([0026]; [0058]; [0070]; [0080]). The method comprises “receiving programming content from a first subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber via a first subscriber's set-top box” [122] ([0056]; [0061]; [0078]) though “one of a dial-up narrowband telephone communication link, a wideband telephone communication link and a cable modem communication link” ([0030]). The received programming content is subsequently “multicast” ([0060]; [0084]) “over a leased digital television channel” ([0081]; [0089]) to the “class of subscribers” such as those belonging to a class of people with a common interest for the delivery of the uploaded material such that the “multicasting is carried out by addressing a set-top box corresponding to each subscriber belonging to the class of subscribers” or group of subscribers interested in the material with information necessary to access the material (Figure 11; [0080] – [0082]; [0084]; [0089]).



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As aforementioned, the reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers” [0082]. The reference, however, does not explicitly set forth “providing the encryption key to the class of subscribers”. The examiner takes OFFICIAL NOTICE that it is notoriously well known in the art of video distribution to “provide the encryption key to the class of subscribers” who are authorized to view requested content. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to “provide the encryption key to the class of subscribers” for the purpose of providing a means for restricting access to multicast material such that only viewers authorized to decrypt and view the requested encrypted content may do so.

Claim 18 is rejected as aforementioned, wherein the Novak reference discloses a “method of providing a channel of television programming to a class of subscribers” (Abstract), wherein “the class of subscribers comprise one of a family, affiliates of a corporate entity, and people with a common interest, the method comprising in combination” ([0026]; [0058]; [0070]; [0080]). The method comprises “receiving programming content from a first subscriber” wherein “the programming content” is “transmitted electronically from the first subscriber via a first subscriber's set-top box” [122] ([0056]; [0061]; [0078]) though “one of a dial-up narrowband telephone communication link, a wideband telephone communication link and a cable modem communication link” ([0030]). Once uploaded, the “first subscriber being one of the class of subscribers” (ex. family member) uses a “schedule arbiter to schedule playback of the programming content” (Figures 6-7; [0062] – [0067] and to

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“remove the programming content by: requesting a schedule arbiter to remove the content and the schedule arbiter removing the content” ([0065]) so as to ensure that multiple programs are not scheduled for the same time slot. Once the schedule has been established, the “programming content” initially received by the “set-top box” [122] from “one of a still camera, a video camera, a video tape player, an audio tape player, a CD players, a PVR and a scanner” ([0039]; [0061]), is subsequently “multicast . . . over the leased television channel to the class of subscribers” by “addressing a set-top box corresponding to each subscriber belonging to the class of subscribers for transmission of the content” (Figure 11; [0060]; [0080] – [0082]; [0084]; [0089]).

As aforementioned, the reference discloses that the “multicasting is carried out by: encrypting the programming content using an encryption key . . . and broadcasting the encrypted programming content to the class of subscribers” [0082]. The reference, however, does not explicitly set forth “providing the encryption key to the class of subscribers”. The examiner takes OFFICIAL NOTICE that it is notoriously well known in the art of video distribution to “provide the encryption key to the class of subscribers” who are authorized to view requested content. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to “provide the encryption key to the class of subscribers” for the purpose of providing a means for restricting access to multicast material such that only viewers authorized to decrypt and view the requested encrypted content may do so.

### *Conclusion*

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Moynihan (US Pub No. 2002/0056119 A1) reference discloses a system and method for an individual to compose and upload a media composition to a server for subsequent multicasting to interested parties.
- The Tabuchi et al. article discloses a TV community system wherein user's may upload and link comments to a video program such that user's watching the program at a later date may be presented with comments from previous viewers.
- The Maruo et al. (US Pat No. 6,757,909) reference discloses an internet set-top box comprising an in-band tuner and cable modem.
- The Basso et al. (US Pub No. 2002/0124262 A1) reference discloses a network based replay service wherein individual terminals are addressed based on subscriptions to multicast groups.
- The Mitra (US Pat No. 5,748,736) reference discloses a system and method for secure group communication via a multicast environment wherein encryption/decryption key information is exchanged so as to allow access to material by group members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.


The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB  
August 18, 2004

  
JOHN MILLER  
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